IN THE HIGH COURT OF UTTARAKHAND AT NAINITAL

Writ Petition No. 232 of 2007 (S/B)

Raghunath S/o late Rewanand
Presently posted as Sub Divisional Officer,
At Electricity Sub-Divisional Landhaura,
Tehsil-Roorkee, Sistrict-Haridwar. ……. Petitioner

Versus

1. Uttarakhand Power Corporation Ltd.
   Urja Bhawan Kanwali Road Dehradun,
   District Dehradun through its Chairman
2. Managing Director, Uttarakhand Power Corporation Ltd.
   Urja Bhawan Kanwali Road Dehradun,
   District Dehradun ……. Respondents

Sri Lokpal Singh, Advocate for the petitioner.
Mr. Atul Tripathy, Advocate on behalf of Mr. B.D. Upadhyay, Advocate for respondent nos. 1 & 2.

JUDGMENT

Coram: Hon'ble J.C.S.Rawat, J.
Hon'ble P.C. Pant, J.

J.C.S.Rawat, J. (Oral)

Sri Lokpal Singh, Advocate for the petitioner.

Mr. Atul Tripathy, Advocate on behalf of Mr. B.D. Upadhyay, Advocate for respondent nos. 1 & 2.

2. This writ petition has been filed by , the petitioner for seeking the following reliefs:

i) Issued a writ, rule, order or direction in the nature of mandamus commanding/ directing the respondents to decide the combined Inter-Se-Seniority list of Assistant Engineer promoted as well as direct recruited Assistant Engineer.

ii) Issue a writ, rule, order or direction in the nature of certiorari quashing seniority list dated 17.08.2006, contained annexure no. 2 to this writ petition.

iii) Issue any other relief, which this Hon'ble Court may deem fit and proper in the circumstances of the case be passed in favour of the petitioner.

iv) Cost of the petition be awarded in favour of the petitioners.

3. The petitioner, in substance, is seeking the quashment of the seniority list date 17.08.2006 (Annexure-2 to the writ petition) and the relief sought for mandamus is the ancillary relief which depends on relief no. 2.

4. Mr. Atul Tripathy, Advocated in behalf of Mr. B.D. Upadhyay, Advocate for respondent nos. 1 & 2 has raised a preliminary objection about the maintainability of the writ petition on the ground that the petitioner has an alternative efficacious remedy of filing a claim petition before the Public Service Tribunal, Uttarakhand.

5. Mr. Lok Pal Singh, learned counsel for the petitioner could not demonstrate as to how the alternative remedy of filing a claim petition before the Public Services Tribunal, Uttarakhand is not efficacious in the present case.

6. In this view of the matter and following the Division Bench decisions in the case of **Bhuvan Chandra Pandey & others Vs. State of Uttaranchal & others** reported in **2006 (2) U.D. 439** and **Nanda Ballabh Pant Vs. State of Uttaranchal & others (W.P.S.B. No 257 of 2005)**, we decline to exercise our discretionary jurisdiction under Article 226 of the Constitution of India.

7. The writ petition, therefore, is dismissed with the liberty to the petitioner to avail the alternative remedy of filing a claim petition before the Public Services Tribunal, Uttarakhand.

(P.C.Pant, J.) **(J.C.S.Rawat, J)**

Dated 10.09.2007
LSR